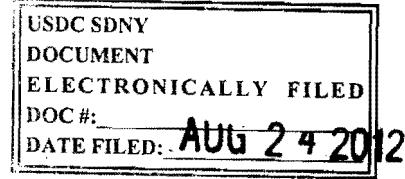


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DENA LENARD,

Plaintiff :

-v-

DESIGN STUDIO and ROSE C. CHRISTO,
Defendants.

08 Civ. 10560 (JPO)

ORDER ADOPTING
REPORT AND
RECOMMENDATION

X

J. PAUL OETKEN, District Judge:

Dena Lenard (“Plaintiff”) brought claims for breach of contract, negligence, fraud, deceptive trade practices, and conversion of property against Design Studio Inc. and Rose C. Christo (“Defendants”). Defendants failed to respond to the Complaint, and Judge Richard J. Holwell, to whom this case was previously assigned, entered a default judgment against Defendants on November 17, 2009, for an amount that was to be determined by an inquest.

Magistrate Judge Debra Freeman issued a Report and Recommendation (“R & R”) on June 21, 2012, in which she recommended that no damages be awarded to Plaintiff because Plaintiff’s submissions were inadequate to support her damages claims. Magistrate Judge Freeman further recommended that the Court vacate the default judgment that had been entered with respect to the negligence, fraud, deceptive trade practices, and conversion of property claims because these claims were inadequately pleaded. She also recommended granting leave to replead the claim for conversion of property. No party has filed any objections to the R & R and the time for filing such objections has passed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations” of a magistrate judge. The Court reviews *de novo* those parts of the R & R to

which objections are made and reviews the remainder for clear error. 28 U.S.C. § 636(b)(1); *see also* Fed.R.Civ.P. 72.

After reviewing Magistrate Judge Freeman's thorough and thoughtful R & R, to which no objections were filed, this Court concludes that there is no clear error and, accordingly, adopts the R & R in its entirety. For the reasons set forth in the R & R, it is hereby

ORDERED that no damages are awarded to Plaintiff as a result of Defendants' breach of contract; and it is further

ORDERED that the default judgment entered against Defendants with respect to the claims for negligence, fraud, deceptive trade practices, and conversion of property is hereby vacated; and it is further

ORDERED that Plaintiff's claims for negligence, fraud, and deceptive trade practices are hereby dismissed with prejudice; and it is further

ORDERED that Plaintiff's claim for conversion of property is hereby dismissed without prejudice. Plaintiff is granted leave to file an amended complaint only with respect to the claim for conversion of property. Any such amended complaint shall be filed no later than September 24, 2012. If Plaintiff does not file an amended complaint on or before September 24, 2012, this claim will also be dismissed with prejudice.

SO ORDERED.

Dated: New York, New York
August 24, 2012



J. PAUL OETKEN
United States District Judge